

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FREE SPEECH COALITION, INC., et al.	CIVIL ACTION
v.	NO. 09-4607
HON. JEFFERSON B. SESSIONS, III	

FINAL JUDGMENT AND DECREE

AND NOW, this 3rd day of August, 2018, for the reasons set forth in the Court's Memorandum Opinion of May 21, 2018 (ECF 267), it is hereby **ORDERED** as follows:

1. The Court having found that Plaintiffs Free Speech Coalition, et al., failed to meet their burden on their First Amendment facial overbreadth claim, the Court ENTERS JUDGMENT IN FAVOR OF DEFENDANT Jefferson B. Sessions, III on Plaintiffs' First Amendment facial overbreadth challenge to 18 U.S.C. §§ 2257 and 2257A and their implementing regulations, 28 C.F.R. §§ 75.1, *et seq.*,
2. The First Amendment as-applied claims of Plaintiffs Free Speech Coalition and American Society of Media Photographers, to 18 U.S.C. §§ 2257 and 2257A and their implementing regulations, 28 C.F.R. §§ 75.1, *et seq.*, are DISMISSED FOR LACK OF STANDING.
3. With respect to the as-applied First Amendment challenges to 18 U.S.C. §§ 2257 and 2257A and their implementing regulations, 28 C.F.R. §§ 75.1, *et seq.*, the Court ENTERS the following JUDGMENT IN FAVOR OF PLAINTIFFS AND AGAINST DEFENDANT:
 - a. 18 U.S.C. §§ 2257 and 2257A and their implementing regulations, 28 C.F.R. §§ 75.1, *et seq.*, are unconstitutional under the First Amendment as applied to

secondary producers within the meaning of 28 C.F.R. § 75.1(c)(2). The Court hereby permanently enjoins Defendant, his agents, servants, employees, attorneys, and other persons acting in concert or participation with him from enforcing these statutes and regulations against secondary producers.

- b. The record-keeping requirements set forth in 18 U.S.C. §§ 2257(a), (b)(3), (c), 2257A(a), (b)(3), (c) and 28 C.F.R. §§ 75.2-.4; and the associated criminal prohibitions set forth in 18 U.S.C. §§ 2257(f)(1)-(2), 2257A(f)(1)-(2) are unconstitutional under the First Amendment. The Court hereby permanently enjoins Defendant, his agents, servants, employees, attorneys, and other persons acting in concert or participation with him from enforcing these statutes and regulations.
- c. The labeling requirements set forth in 18 U.S.C. §§ 2257(e)(1), (e)(2); 2257A(e)(1), (e)(2) and 28 C.F.R. §§ 75.6, 75.8, and the associated criminal prohibitions set forth in 18 U.S.C. §§ 2257(f)(3), (f)(4); 2257A(f)(3), (f)(4), are unconstitutional under the First Amendment. The Court hereby permanently enjoins Defendant, his agents, servants, employees, attorneys, and other persons acting in concert or participation with him from enforcing these statutes and regulations.
- d. Except for prosecutions of primary producers for violation of the identification and age verification requirements of 18 U.S.C. § 2257(b) and 18 U.S.C. § 2257A(b), the criminal penalties set forth in 18 U.S.C. §§ 2257(i), 2257A(i) are unconstitutional under the First Amendment.

- 4. With respect to all other aspects of Plaintiffs' as-applied claims under the First Amendment, including Plaintiffs' challenge to the age verification and identification

requirements of 18 U.S.C. §§ 2257(b)(1)-(2), 2257A(b)(1)-(2) insofar as Plaintiffs act as primary producers within the meaning of 28 C.F.R. § 75.1(c)(1), and Plaintiffs' challenge to the imposition of criminal penalties pursuant to 18 U.S.C. §§ 2257(i), 2257A(i) for violation of these requirements, the Court enters JUDGMENT IN FAVOR OF DEFENDANT AND AGAINST PLAINTIFFS.

5. The Court previously entered judgment in favor of Plaintiffs and against Defendant declaring that 18 U.S.C. § 2257 (f)(5), 18 U.S.C. § 2257A (f)(5), as well as the portions of 18 U.S.C. 2257 (c) and 18 U.S.C. § 2257A (c) that require recordkeepers to "make such records available to the Attorney General for inspection at all reasonable times," and 28 C.F.R. § 75.5 are facially unconstitutional under the Fourth Amendment, Judgment (Doc. 242), in accordance with the decision of the Third Circuit. The Court now hereby permanently enjoins Defendant, his agents, servants, employees, attorneys, and other persons acting in concert or participation with him from enforcing these statutes and regulations.
6. Each party is to bear its own costs.

BY THE COURT:

/s/ Michael M. Baylson

MICHAEL M. BAYLSON, U.S.D.J.